

ARIZONA STATE SENATE

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TO: MEMBERS OF THE SENATE
GOVERNMENT COMMITTEE

DATE: March 19, 2018

SUBJECT: Strike everything amendment to H.B. 2235, relating to dental therapy; regulation; licensure

Purpose

Establishes dental therapy and outlines requirements and permissions for dental therapists.

Background

Arizona's Sunrise Review process provides a mechanism to request the regulation of health and non-health professions or an expansion in scope of practice for health professions. The Sunrise Review process begins with an applicant group presenting the Speaker of the House of Representatives (Speaker) and the President of the Senate (President) with a report defining the need for the specified regulation or the scope of practice expansion. The Speaker and President subsequently assign the report to a Committee of Reference (COR) to conduct a review of the materials and to provide a recommendation regarding the regulation or practice expansion request. The Senate Health and Human Services and the House of Representatives Health COR held a public meeting on November 28, 2017, to review and consider Dental Care for Arizona's [Sunrise Application](#) and to receive public testimony. The COR recommended that a bill be drafted for consideration by the full Legislature containing the items in the submitted Sunrise Application.

The Board of Dental Examiners (Board) was created by the Legislature to examine and license individuals who provide dental services. The Board investigates complaints against licensed and unlicensed individuals and takes disciplinary action for violations of law ([A.R.S. § 32-1201](#)). The Board is comprised of 11 members who are appointed by the Governor and serve four year terms. Board membership includes six dentists, two dental hygienists and three public members.

According to a [JLBC Fiscal Note](#) for a similar measure, the anticipated fiscal impact to the state General Fund (GF) associated with this legislation is unknown. As a 90/10 agency, the Board is funded through the collection of licensing fees. 90 percent of revenues generated by the Board are deposited into the Dental Board Fund for appropriation by the Legislature and the remaining 10 percent of the collected funds are deposited into the state GF. H.B. 2235 directs the Board to license qualified dental therapists and directs the Board to establish a fee for dental therapy licensure.

Provisions

Dental Therapy Regulations

1. Defines *dental therapist* as a person who is licensed and engaged in the general practice of dental therapy and all related and associated duties.
2. Requires the Board to:
 - a) establish a uniform and reasonable standard of minimum education requirements consistent with accreditation standards of the American Dental Association Commission for dental therapy schools; and
 - b) determine the reputability and classification of dental therapy schools in accordance with their compliance with specified standards.
3. Outlines various duties licensed dental therapists can perform, subject to a written collaborative practice agreement.
4. Prohibits a person from claiming to be a dental therapist unless they are licensed as a dental therapist.
5. Classifies the unlicensed practice of dental therapy as a class 6 felony.
6. Prohibits a dental therapist from dispensing or administering a narcotic drug.
7. Requires a licensee to notify the Board in writing within 10 days of a change in primary mailing address. Failure to notify the Board results in the following civil penalties:
 - a) \$50 if a licensee notifies the Board after the 10th day but before the 30th day; or
 - b) \$100 if a licensee notifies the Board on or after the 30th day.
8. Allows an intern or student of dental therapy to operate in clinical departments or laboratories of recognized dental therapy schools under the supervision of a dentist.
9. Allows a recognized dental therapy school to grant advance standing or credit for prior learning to a student who has prior experience or coursework that is determined to be equivalent to didactic and clinical education in its accredited program.
10. Allows the Board to order physical, psychological, psychiatric and competency evaluations of dental therapists.
11. Includes dental therapists in the treatment and rehabilitation program established by the Board and requires a dental therapist who is impaired by alcohol or drug abuse to agree to enter into a confidential non-disciplinary stipulation agreement with the Board.

Licensing & Renewal

12. Requires an applicant for licensure as a dental therapist to:
 - a) apply to the Board on a prescribed form;
 - b) verify under oath that all statements in the application are true; and
 - c) include a recent photograph and required fee with the application.
13. Allows the Board to grant a license to practice dental therapy to an applicant who:
 - a) is a licensed dental hygienist;
 - b) graduates from an accredited dental therapy education program, or a program that holds initial accreditation, that is offered through an accredited higher education institution recognized by the United States Department of Education;
 - c) successfully passes:
 - i. the Western Regional Examining Board Examination or equivalent, within 5 years before applying; and
 - ii. the Arizona Dental Jurisprudence Examination;
 - d) is not subject to any grounds for denial;
 - e) obtains a valid fingerprint clearance card; and
 - f) meets all licensure requirements established by the Board.
14. Requires, after graduating from an accredited dental therapy education program and successfully passing the required examinations, a licensed dental therapist to complete 1,000 hours of dental therapy clinical practice under the direct supervision of a dentist.
15. Allows the Board to deny an application for licensure or renewal if the applicant:
 - a) has committed an act that would be cause for censure, probation, suspension or revocation of a license;
 - b) while unlicensed, committed or aided and abetted the commission of an act for which a license is required;
 - c) knowingly made any false statement in the application;
 - d) has had a license to practice dental therapy revoked in another jurisdiction for an act that constitutes unprofessional conduct;
 - e) is suspended or restricted by a regulatory board in another jurisdiction for an act that constitutes unprofessional conduct; or
 - f) has surrendered, relinquished or given up a license to practice dental therapy instead of disciplinary action in another jurisdiction for an act that constitutes unprofessional conduct.
16. Requires the Board to require for licensing or renewal:
 - a) a minimum number of active practice hours within a specified time period before the applicant submits the applications; and
 - b) an affirmation that the applicant has completed the continuing education requirements.
17. Allows the Board to issue a new license to a dental therapist whose license was previously suspended or revoked if the applicant demonstrates that the applicant is completely rehabilitated with respect to the conduct that was the basis for the suspension or revocation.

18. Requires the Board to suspend an application for licensure if the applicant is currently under investigation by a dental regulatory board in another jurisdiction, until the investigation is completed.
19. Stipulates that dental therapist licenses expire on June 30 of every third year.
20. Requires each licensed dental therapist, before June 30 of every third year, to submit a complete renewal application and fee to the Board.
21. Requires a licensee to include with the renewal application a written affidavit affirming that the licensee complies with the Board rules relating to continuing education requirements. A licensee in disabled status and a licensee that received an initial license within a year preceding the expiration date of the license is not required to complete the affidavit.
22. Allows the Board to grant an extension of time to complete the continuing education requirements upon receiving a written request for extension.
23. Deems a license expired on August 30 of the expiration year if a continuing education extension request is denied.
24. Allows an individual to reinstate their license by submitting a renewal application, the renewal fee and a \$100 penalty within 24 months immediately following the expiration of the license.
25. Stipulates that the reinstatement period begins on the date of application and remains active only for the remainder of the three-year period.

Collaborative Practice Agreements

26. Allows a practicing dentist and a licensed dental therapist to enter into a written collaborative practice agreement for the delivery of dental therapy services.
27. Prohibits a dental therapist from:
 - a) practicing dental therapy except under and pursuant to a written collaborative practice agreement with a supervising dentist; and
 - b) entering into a collaborative practice agreement unless the dental therapist has completed 1,000 hours of dental therapy clinical practice under the direct supervision of a dentist.
28. Requires a written collaborative agreement to:
 - a) address any limit on services and procedures to be performed by a dental therapist;
 - b) address any limit on practice settings established by the supervising dentist and the level of supervision required for various services or treatment settings;
 - c) establish practice protocols, including protocols for informed consent, recordkeeping, managing medical emergencies and providing care to patients with complex medical conditions;
 - d) establish protocols for quality assurance, administering and dispensing medications and supervision of dental assistants; and

- e) include specific protocols to govern situations in which the dental therapist encounters a patient requiring treatment that exceeds the dental therapist's scope of practice or limitations imposed by the collaborative practice agreement.
- 29. Allows a dental therapist to practice authorized procedures in a practice setting in which the supervising dentist is not on-site and has not previously examined the patient or rendered a diagnosis.
- 30. Stipulates that the supervising dentist's presence, examination, diagnosis and treatment plan are not required unless specified by the written collaborate practice agreement.
- 31. Limits dentists from entering into more than five separate collaborative practice agreements with dental therapists.
- 32. Requires a supervising dentist to provide for or arrange for another dentist or specialist to provide any service needed by the dental therapist's patient that exceeds the dental therapist's authorized scope of practice.
- 33. Requires each dental practice to disclose to the patient whether they are scheduled to see the dentist or dental therapist.
- 34. Requires each dentist in a collaborative practice relationship to:
 - a) be available to provide appropriate contact, communication and consultation with the dental therapist; and
 - b) adopt procedures to provide timely referral of patients whom the dental therapist refers to a licensed dentist for examination.
- 35. Requires each dental therapist in a collaborate practice relationship to:
 - a) maintain an appropriate level of contact with the dentist; and
 - b) perform only the duties within the terms of the written collaborative practice agreement.
- 36. Requires the supervising dentist and the dental therapist to sign the written collaborative practice agreement and submit the agreement and any amendment to the Board within 30 days after the effective date of the agreement or amendment.
- 37. Allows the supervising dentist and the dental therapist to update and amend the written collaborative practice agreement as necessary.
- 38. Requires the supervising dentist and the dental therapist to notify the Board of the beginning and termination date of the written collaborative agreement, if the date is different than provided in the agreement.

Fees

- 39. Requires an applicant to pay a licensure by credential fee established by the Board.

40. Requires an applicant for a dental therapy license for the first time in Arizona to pay a prorated fee of not more than one-third of the prescribed fee for the period remaining until the next June 30.
41. Requires the Board to apply any change in fee prospectively to a licensee at the time of renewal.
42. Requires the Board, at least once every three years before establishing the fee, to review the fee amount in a public meeting.
43. Stipulates that the prescribed fee does not apply to a retired dental therapist or a dental therapist with a disability.
44. Allows a licensee with a permanent disability or a licensee who is at least 65-years-old and fully retired to contribute services to a recognized charitable institution and still retain the classification as disabled or fully retired for registration purposes by paying a reduced renewal fee.

Dental Therapist Study

45. Requires the Department of Health Services (DHS), in consultation with the Board, to conduct a study concerning the impact of licensing dental therapists on:
 - a) patient safety;
 - b) cost effectiveness; and
 - c) access to dental services.
46. Requires the study to include the following outcome measures:
 - a) the number of licensed and practicing dental therapists in Arizona;
 - b) the employment settings of dental therapists;
 - c) the number of new patients served;
 - d) the reduction of waiting time for appointments;
 - e) the decreased travel time for patients;
 - f) the impact on emergency room usage for dental care; and
 - g) the costs to the health care system.
47. Requires the study to be complete by December 31, 2023, and within 30 days after the completion of the study, the Director of DHS is required to report the findings to the chairpersons of the Senate Health and Human Services Committee and House of Representatives Health Committee, or their successor committees.

Miscellaneous

48. Includes in the definition of *unprofessional conduct*, providing services or procedures as a dental therapist that are beyond those authorized in the written collaborative practice agreement.
49. Makes technical and conforming changes.
50. Becomes effective on the general effective date.